Supreme Court, U.S.
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No. 94-1820

In The

Supreme Court of the United States

October Term, 1994

MATTHEW DARRAH AND LEA DARRAH, AKA LEA TYLER,

Petitioners,

v.

CHILDREN'S HOME SOCIETY OF CALIFORNIA, DEE HESZLER, DAVIS CRISIS PREGNANCY CENTER, KATHY HUNTZIKER,

Respondents.

On Petition For Writ Of Certiorari To The California State Court Of Appeal For The Third Appellate District

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF QUESTION PRESENTED

1. Whether Petitioners' waivers of their parental rights in connection with the placement of their child for adoption were given knowingly, voluntarily and intelligently?

LIST OF PARTIES

Respondent Children's Home Society of California ("CHS") is a nonprofit corporation organized and existing under the laws of the State of California and licensed by the State of California as an adoption agency. It is neither a parent nor a subsidiary of any other corporation. It is not a publicly held corporation.

CHS is informed and believes that Respondent Davis Crisis Pregnancy Center is a nonprofit corporation organized and existing under the laws of the State of California.

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TO THE HONORABLE SUPREME COURT:

Respondents Children's Home Society of California and Dee Heszler respectfully request that this Court deny the Petition for writ of certiorari, seeking review of the California Court of Appeal for the Third Appellate District's opinion in this matter. That reported opinion appears at *Tyler v. Children's Home Society of California*, 29 Cal.App.4th 511, 35 Cal.Rptr.2d 291 (1994) and is also reproduced in Appendix 3 to the Petition.

OPINIONS BELOW

In October 1991, Petitioners filed a civil action in the California Superior Court alleging fraud, undue influence and duress as grounds to rescind their relinquishments, or written waivers, for adoption of their minor child.

Respondents Children's Home Society of California (hereafter referred to as "CHS"), Dee Heszler (a social worker employed by CHS), Davis Crisis Pregnancy Center (hereafter referred to as "CPC") and Kathy Huntziker (a volunteer CPC counselor) filed responsive pleadings denying all wrongdoing.

This action was tried for three weeks by the Superior Court. On June 1, 1993, the Superior Court issued its Opinion and Ruling (Petition App. 4) in which it fully upheld the validity of the relinquishments. On July 13, 1993, judgment was entered by said court and Petitioners appealed.

On October 21, 1994, the California Court of Appeal for the Third Appellate District filed its decision in which it unanimously affirmed the Superior Court judgment (Petition App. 3).

Petitioners then petitioned for review by the California Supreme Court which was summarily and unanimously denied by that Court in January 1995 (Petition App. 2).

The instant Petition for Writ of Certiorari followed.

JURISDICTION

As discussed below, Respondents respectfully submit that the Petition is fatally defective, both procedurally and substantively, due to the numerous misrepresentations of fact and misapplication of constitutional and case law authorities. Due to the Petition's reliance on inapposite authorities, it is not possible to determine whether jurisdiction is proper.

The only constitutional issue which is arguably raised in the Petition is the well-established standard for waiver of constitutional rights, which standard was properly stated and applied by the courts below.

Notwithstanding the defects in the Petition, since the California Court of Appeal decision (upon which this Petition is based) does contain a proper discussion of the application of the Due Process Clause of the Fourteenth Amendment (Petition App. 3, 71-80), it is assumed that jurisdiction is being sought under 28 U.S.C. § 1257.

STATUTES AND REGULATIONS INVOLVED

For the reasons set forth in the preceding section, it also is impossible to determine exactly which statutes and regulations are properly involved in this matter.

Petitioners seek to mislead this Court concerning the extent of the regulatory noncompliance. They refer to numerous alleged violations in their Petition (Petition 7-33, App. 5).

After reviewing each of the myriad of violations alleged by Petitioners and the entire trial court transcript

itself, the California Court of Appeal found only four minor violations of regulations by Respondent Children's Home Society. (Petition App. 3, 48-49, 54, 94). The Court of Appeal expressly stated that "we do not deal in this case with a wholesale disregard of the regulations but rather a partial noncompliance regarding details . . . " (Petition App. 3, 54) as a result of which, the Court found no prejudice to the Petitioners (Petition App. 3, 95).

Yet, before the California Supreme Court and this Court, Petitioners again contend that there were numerous other regulations violated (See Petition App. 5). However, in violation of California Rule of Court 29(b)(2) and Rule 14(h) of this Court, Petitioners did not timely and properly present these matters to the Court of Appeal and California Supreme Court by way of a timely Petition for Rehearing. They apparently expected both high courts to engage in a de novo review of the factual determinations made in the courts below.

Notwithstanding these procedural infirmities, the four provisions identified by the Court of Appeal were former California Civil Code section 222.26 (now restated in California Family Code §§ 8608, 8706) and Title 22, California Code of Regulations, sections 35134(a)(3), 35134(a)(4) and 35151 (Petition App. 3, 30-36, 45-49).

STATEMENT OF THE CASE

Introductory statement.

By way of background, California adoption procedures with respect to agency adoptions allow birth

parents to waive their parental rights and consent to the adoption by way of written waiver forms called relinquishments (Petition App. 3, 18-23). Prior to signing the waiver form, a birth parent considering adoption is typically advised of his or her legal rights and options by way of, among other things, being provided with a state-mandated, detailed, multi-page written form called a Statement of Understanding (App. C and D, infra). As occurred in this case, a blank copy of the form is given to the birth parent well in advance of his or her signing it.

In addition, prior to signing the relinquishment form, the birth parent is required to review and initial each advisement provision of the Statement of Understanding form and then to execute it at the end of the document.

In addition to other advisements outlined below, this procedure was followed as to each Petitioner. (App. C and D, infra).

Statement of Facts.

Set forth below is a summary of the evidence admitted at the trial before the California Superior Court. This Court is respectfully directed to the Opinion and Ruling after trial of the Superior Court (Petition App. 4, 7-23) and the Court of Appeal decision (Petition App. 3, 3-16) which summarize the testimony in a similar manner.

This summary is essential for this Court to understand the facts and circumstances which lead the lower courts to the proper conclusion that the waivers of parental rights by the Petitioners were done so knowingly,

voluntarily, and intelligently. It also reveals the misstatements and specious arguments to which the Petitioners resort in the instant Petition in a vain attempt to fabricate an issue worthy of review by this Court where none exists.[1]

This case simply involves the changing of birth parents' minds relating to a decision concerning relinquishment of a child for adoption following an extended placement of the child with a prospective adoptive couple of the birth parents' own choosing.

In 1991, Petitioner Lea Darrah (nee Tyler)[2] was a student at the University of California at Davis who gave birth to a child on April 14, 1991. She was unmarried at the time, but was in continuous communication with the alleged birth father, Matthew Darrah, both before and

---

[1] Respondents respectfully direct this Court's attention to the fact that the California Court of Appeal severely criticized Petitioners' appellate briefs for their "distorted picture of the factual background of the case", the "discredited version of the facts" and their "misrepresent[ation of] the extent of [Respondents] noncompliance with the [subject] regulations." (Petition App. 3, 96-97). Notwithstanding this severe admonishment by the Court, Petitioners in the instant Petition continue with their: 1. distorted presentation of the facts, 2. exaggerated regulatory violation claims, and 3. citation to inapposite authorities.

[2] Petitioner Lea Darrah (nee Tyler) was unmarried at the time of the events in question. For ease of identification, Ms. Darrah will be referred to by her unmarried name, i.e., "Petitioner Tyler" or "Tyler", and the alleged father Matthew Darrah will be referred to as "Petitioner Darrah" or "Darrah". Matthew Darrah also goes by the name of Matthew Kinn, which is the name by which he signed the Statement of Understanding (App. D, infra).

after the birth of the child. Darrah was a student at the University of California at San Diego. Both are bright, intelligent, honor students attending top universities.

Despite their knowledge of the pregnancy for at least 5 months prior to birth, neither did anything at all to prepare for the birth or rearing of the child. They had purchased no clothes, food, furniture, or other baby items. They sought no prenatal care nor made any efforts for the delivery of the baby. To the contrary, with the exception of one of Darrah's friends, they kept the pregnancy and birth a secret from everyone, including friends, dormitory roommates and family.

Moreover, Darrah never sought any employment to help support Tyler during her pregnancy or to raise money for the birth or rearing of the child. Instead, he continued to lead the happy life of a college student, fully participating in the university's club water polo team and surfing. He never bothered to tell his parents about the child until months after Tyler told her parents in the Fall of 1991, nor did he request a rescission of the relinquishment. He was, at best, a reluctant participant in these proceedings, a fact which was carefully noted by the Superior Court in its Opinion (Petition App. 4, 19).

Consistent with their plans, Tyler chose to secretly deliver the child in her dormitory bathroom while her five unwitting roommates slept in adjoining rooms. She did not attempt to awaken them at any time during or after the delivery; instead, immediately after the birth, she meticulously cleaned the bathroom, hid the dirty linen in her closet and shrouded the child from view by her roommates until she left undetected the following

morning. Tyler later told the adoptive couple that she studied and chose self-delivery in order to avoid a hospital birth and possible discovery by her parents.

Rather than obtaining medical care for the child or herself, Tyler chose to travel to San Diego to further discuss with the birth father their options relating to the child. Even before her departure, she called Respondent Davis Crisis Pregnancy Center ("CPC") to specifically ask about placing the child for adoption.

During Tyler's nearly week-long visit with Darrah in San Diego, Petitioners confirmed their decision to place the child for adoption. Consistent with their plan, Petitioners denied that the child was theirs when Darrah's roommates inquired. Prior to returning to Davis, Tyler telephoned the CPC concerning immediate placement of the child in foster care pending placement for adoption.

The Superior Court found that Petitioners' adoption decision was arrived at independently by them and that the relinquishments they signed were knowingly, intelligently and voluntarily given (Petition App. 4, 12). Evidence of this came not only from the testimony of numerous witnesses at trial, but also, as discussed below, from Petitioners' own numerous writings before, during and after their participation in the relinquishment process.

Upon her return to Davis from San Diego on April 21, 1991, Tyler, at her express request, met with Respondent Kathy Huntziker of CPC and Respondent Dee Heszler, a field representative in Child Counseling and Adoption Services with Children's Home Society of California.

Various options were discussed with Tyler concerning rearing the child by herself or with the birth father. However, Tyler gave at least three reasons why she did not wish to raise the child herself or with the birth father. First and foremost, she did not want her parents to find out about the pregnancy. Second, Tyler indicated that she and the birth father both wanted to finish their college educations prior to starting their families. Third, she indicated that both were without means to properly raise the child. Accordingly, despite counseling from Dee Heszler concerning her other options, Tyler had decided that adoption was the best choice.

Since it was apparent that the Petitioners had already decided upon adoption, Dee Heszler agreed to take the child into foster care and also gave to Tyler copies of the state mandated Statement of Understanding and Relinquishment forms which Tyler was advised she would be required to sign at a later date if she elected to proceed with adoption.

Tyler specifically was advised not to sign these documents but merely to review them to determine if adoption was the choice she wanted to make. Since Darrah initially decided to remain in San Diego, the state mandated forms were mailed to him there.

As noted, these Statement of Understanding forms are especially significant since they contain all the essential information which Petitioners imply that they were denied by virtue of the purported noncompliance with the regulations. Through these forms, the availability of resources, the right to counsel, the independent adoption option and many other items of information were made

available to both Petitioners very early on in the adoption process. (App. C and D, infra). As noted above, Petitioners again carefully reviewed, then initialed and signed, these same forms during the relinquishment session.

Since Petitioners strongly indicated a desire to place the child for adoption immediately, Dee Heszler also gave Tyler an album of resumes of prospective adoptive parents for her review.

It was thus Petitioners' decision not to tell Tyler's parents, not anything that Respondents did or failed to do, that lead Petitioners to the decision to place their child for adoption. This was so despite repeated encouragement by Respondents to tell their parents. For Tyler, all other alternatives (e.g., marriage, single motherhood, etc.) carried with them the possibility that her parents might find out about the child.

What followed was that Petitioners called the shots and Respondents responded as best they could. Petitioners requested and received: 1. foster care pending adoption; 2. medical treatment for Tyler and the child; 3. visitation with the child on multiple occasions; 4. meetings at Petitioners' convenience with the adoptive couple of their choice; 5. air fare for Darrah to meet the adoptive couple and sign the relinquishment papers; and 6. execution of the relinquishment papers according to Petitioners' timetable.

Accordingly, any minor deviation from strict compliance with certain regulations was *the result of*, not *the cause of*, Petitioners' voluntary, intelligent and knowing adoption choice.

The trial evidence flatly refuted the false impression sought to be cast by Petitioners that Darrah was somehow in the dark in this matter. To the contrary, he was in constant contact with Tyler and was well informed. Darrah just did not want to start a family, which is why he managed to take only a few days out of his school and water polo schedule to come to Davis, sign papers and fly back to school. Once there, he resumed his normal schedule. As noted above, his participation in the early stages was reluctant at best.

On Saturday, May 4, 1991, pursuant to the Petitioners' request, they executed the necessary Statement of Understanding and Relinquishment forms before two witnesses. The Petitioners were also advised, pursuant to the option they voluntarily chose, that they could revoke their relinquishments on or before the close of business on Monday, May 6, 1991. In addition, Dee Heszler advised the Petitioners that they could call her at any time. Finally, Dee Heszler specifically went through the Children's Home Society of California's own procedure of questioning the Petitioners directly concerning their understanding of the significance of the documents they were signing, and they acknowledged they did. Only after these procedures were followed did Ms. Heszler proceed with accepting the relinquishments.

Tyler brought flowers to this meeting and gave them to the adoptive mother, the CPC worker and the foster mother to thank them for all their help. Petitioners left the meeting together and then left for a trip to San Diego.

When nothing was heard from the Petitioners by the close of business of May 6, 1991, the relinquishments

were duly filed with the Department of Social Services on May 7, 1991, thereby terminating Petitioners' parental rights and responsibilities.

On May 30, 1991, Tyler again met with the prospective adoptive parents and Dee Heszler at which time there was a very pleasant exchange and Tyler gave the adoptive mother a Mother's Day card (App. A, infra), which states: **"Thank you so much for giving Michelle exactly what we want for her, loving parents. Happy Mother's Day!"** (emphasis added). The card is signed by both Petitioners and written by Tyler. Tyler indicated no desire to set aside her relinquishment at that time. In fact, she enjoyed a pleasant lunch with Dee Heszler after the meeting.

On July 23, 1991, Dee Heszler again met with Petitioners, at their request, for approximately one hour wherein they confirmed to her that they had made the right choice and neither Petitioner expressed any desire to set aside the relinquishments.

Not until September 1991 did Tyler contact Children's Home Society of California concerning a request to set aside her relinquishment. Pursuant to California law, Dee Heszler forwarded the appropriate rescission request form to Tyler.

When the completed rescission request form was returned by Tyler, the matter was reviewed and, based upon the absence of any legal basis to set aside Tyler's relinquishment and the best interests of the child in not disturbing her placement with the prospective adoptive parents where she had been raised since May 4, 1991,

Children's Home Society of California denied the request for rescission.

Thereafter, Petitioners filed the underlying action in the California Superior Court.

As noted above, critical documentary evidence admitted at trial in the Superior Court showed Petitioners' adoption intent during the period from the latter stages of the pregnancy to several weeks after the relinquishments.

Before she ever met anyone from Children's Home Society of California or CPC, Tyler was writing letters to Darrah. These letters from the last two months of pregnancy are of great importance since they reveal significant omissions.

There is no reference in the letters to the baby, to raising a family together in the immediate future, to telling Tyler's parents of the baby or to any other statement which would indicate a plan, or even an expectation, on the part of Tyler or Darrah of a life together or apart that involved the child.

These letters reveal a couple whose circumstances, by their own admissions, did not allow for a child. They were, at most, looking into the distant future, after college, to be together, to get married and to start a family. In letters containing these types of intimate sentiments, it is inconceivable that the mention of a child whose birth was imminent and whom they hoped to raise would have been omitted. Once again, the Superior Court properly considered the significance of this telling evidence in its Opinion (Petition App. 4, 22-23).

Petitioners' adoption mind set is further confirmed by Tyler's writings during the relinquishment process itself. In completing a CHS form during the relinquishment period, Tyler writes: **"Matt is totally cooperating with all the necessary steps to ensure that we find Michelle the best possible family."** (App. B, infra).

Finally, in the post-relinquishment period, is the above-noted Mother's Day card (App. A, infra). As the Superior Court found, by their notation on the card, Petitioners were expressing heartfelt gratitude to the adoptive mother for offering their child a loving home. (Petition App. 4, 12-13).

Other evidence at trial showed that Respondent Children's Home Society of California is the oldest and largest adoption agency in the state and Respondent Dee Heszler is an experienced social worker with over 10 years of experience with CHS. Contrary to another false impression cast by Petitioners, Ms. Heszler's unrefuted testimony was that only about one in four of the birth mothers she counsels places a child for adoption.

Both Respondents Dee Heszler and Kathy Huntziker denied that they engaged in any coercive, demeaning or otherwise improper conduct towards Petitioners, despite Petitioners' false allegations to the contrary. The obvious credibility of Respondents' version of the events was corroborated not only by the Superior Court's findings on these issues of alleged wrongdoing, but also on its specific finding that these Respondents were "**ethical, principled and experienced professional individuals**." (emphasis added) (Petition App. 4, 10).

Thus, it is clear that when the Superior Court had heard all the evidence, it wholly rejected that version to which the Petitioners testified. In other words, Petitioners' story was found to be untruthful.

Respondents respectfully submit that this Court should carefully consider this crucial finding as well as the Court of Appeal's admonishment concerning the Petitioners' appellate briefing (footnote 1, supra) when considering the weight to be given to Petitioners' Petition.

REASONS WHY THE PETITION SHOULD BE DENIED

I. The Petition seeks review of issues not properly presented to the highest state court.

Petitioners alleged numerous violations of adoption regulations in their opening brief before the Court of Appeal. However, as noted above, the Court of Appeal, in its comprehensive review and evaluation, concluded that there were only four minor violations of the regulations and further determined that the Petitioners were not prejudiced by any of those violations.

Pursuant to California Rule of Court 29,[3] if Petitioners disagreed with the Court of Appeal determination

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[3] Rule 29(b) of the California Rules of Court provides, in pertinent part, as follows:

> As a matter of policy, on petition for review the Supreme Court normally will not consider:
>
> . . .
>
> (2) any issue or any material fact that was omitted from or misstated in the opinion of the Court of

on these material facts, they were required to bring a petition for rehearing before that Court to call these matters to its attention before presenting them to the California Supreme Court for determination. Petitioners failed to do this and, thus, the California Supreme Court did not review them.

This Court should disregard the additional regulation violations claimed by Petitioners. Rule 14(h) of this Court requires that Petitioners establish that their issues were properly and timely raised below. Petitioners have not done so as to the alleged regulation violations other than the four cited by the Court of Appeal.

Since the Court of Appeal's evaluation and conclusions relating to the four delineated violations is entirely consistent with sound legal precedent, there is no reason for this Court to spend its precious time reviewing what are, at best, evidentiary questions.

In addition, Petitioners did not challenge, by way of a proper Petition for Rehearing, the Court of Appeal's findings with respect to the very material issue of the lack of prejudice to Petitioners by any of the violations.

II. The Petition's Question Presented and authorities cited are inapposite.

Respondents respectfully submit that the Petition satisfies none of the requirements for review by certiorari by

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> Appeal, unless the omission or misstatement was called to the attention of the Court of Appeal in a petition for rehearing. . . .

this Court. None of the criteria of Rule 10 of this Court have been met, nor are there any other special reasons to grant the Petition.

As stated in the Question Presented in this brief, supra, the only federal question that is even arguably properly before this Court relates to the Petitioners' waiver of their parental rights.

The standard for such waivers has long been established and is not in dispute. They must be voluntarily, knowingly and intelligently made. *Brady v. United States*, 397 U.S. 742, 748 (1970). Both the California Superior Court (Petition App. 4, 12, 21) and the California Court of Appeal (Petition App. 3, 79), after reviewing all the evidence, expressly found and concluded that this standard was met as to Petitioners' waivers. As shown by the factual summary set forth above, the lower courts' determinations on this issue are supported by abundant evidence.

Petitioners' arguments, to the contrary, are based upon clearly inapposite authorities. By their legally unsupported propositions and arguments based upon misplaced application of certain Supreme Court cases arising out of disparate contexts, Petitioners seek, inter alia, to add unfounded additional responsibilities on adoption agencies. The lower courts properly rejected these arguments.

The vast majority of the cases relied upon by Petitioners have nothing to do with adoptions. What they do have in common, in stark contrast to the instant case, is that in each there was an adverse ruling made by a

government proceeding by which the government *involuntarily* terminated some benefit or entitlement. In doing so, the government failed to comply with its own procedure.

In the present case, the great weight of the evidence, the trial court judgment and the appellate court decision support the conclusion that Petitioners' adoption decisions were made knowingly, *voluntarily* and intelligently.

III. The decisions by the courts below are correct.

As noted above, the only arguable constitutional issue which is raised by the Petition is that of the waiver of constitutional rights. When the well-established standards thereof are applied to this case, the conclusion concerning the correctness of the lower court findings is self-evident.

The only substantive discussion of a federal question in the courts below occurs in the California Court of Appeal decision's analysis of federal due process (Petition App. 3, 71-80). That discussion is clear, concise and correct. It is also well supported by the cited decisions of this Court and the federal Courts of Appeals.

CONCLUSION

Respondents Children's Home Society of California and Dee Heszler acknowledge the difficult emotional issue this Court faces in this matter. One side will surely suffer a great loss as a result of the Court's decision.

However, the instant Petition is a last ditch effort to undo what Petitioners freely and voluntarily chose to do over four years ago, namely, to relinquish their child for adoption to a couple whom they hand picked and who have been lovingly raising the child since that time. Petitioners' arguments herein are merely a smoke screen to cloud the clear findings of the lower courts that Petitioners "knowingly, intelligently and voluntarily" signed the relinquishment documents (Petition App. 4, 12).

Adoptions cannot stand for these kinds of endless, deceptive and disingenuous attacks. Petitioners had their day in court (in fact, they had three weeks) and wholly failed to prove that their relinquishment decisions were anything other than knowingly, intelligently and voluntarily made. Having failed to sell their untrue tale to the trial court, on appeal they grasped at a disingenuous regulatory compliance issue which had no substantive merit and which in no way affected their decisions to relinquish. The Court of Appeal, keenly sensing Petitioners' distortions, unanimously rejected their claims. The California Supreme Court did likewise.

By their Petition to this Court, Petitioners further distort and contort the established law of federal constitutional due process to contrive arguments which are supportable neither by law nor good public policy.

Absent wrongdoing which truly vitiates the consent given by birth parents, the integrity of the adoption process must be affirmed. It is not, as Petitioners would have it, a one way street which runs only in the direction of birth parents without regard to the others in the process. Moreover, constitutional due process standards cannot be

based solely on bodies of state regulatory procedures which by definition will vary from state to state. To do so would allow for due process standards under the Federal Constitution to differ in California and in the Carolinas.

Relinquishments have to be upheld so that adoptive parents will open their homes to children in need and orphaned children will be raised in loving homes. If nonsubstantial defects can be used by birth parents to unravel binding relinquishments, then no adoption is safe and orphaned children and adoptive parents will needlessly suffer.

Respondents Children's Home Society of California and Dee Heszler respectfully request that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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APPENDIX A

Dear Christine,

Inside-

There's nothing more beautiful
than a new mother
holding her child,
and it's lovely
to think of you that way--
you're such a naturally
warm and caring person
that you're sure to be
a wonderful mother.

Happy
First Mother's Day

Thank you so much for giving Mickelle exactly what we want for her, loving parents.
Happy Mother's Day!

Mother Tu

Lea Tyler

BEST AVAILABLE COPY

APPENDIX B

Name: Matthew Ray Darrah Address: 44 Via Paseur, San Diego, CA

Does he know of this child? yes

Place of employment none, he is a student at UCSD

Remarks on his willingness to cooperate by signing necessary relinquishment documents:

Matt is totally cooperating with all the necessary steps to ensure that we find Michelle the best possible family.

Natural Father of this Child

Name: Matthew Ray Darrah Address: _____

Is he aware of pregnancy? Yes

Is he helpful in meeting costs and other problems? Yes

Which of his relatives also know of pregnancy? none

Since it is necessary to obtain his personal and family health history, will you assist in making our mutual contact possible, e.g., preferably in person, but if necessary, by mail? yes

If he is not available, does he have a close relative who could assist with the history? n/a

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APPENDIX C

STATEMENT OF UNDERSTANDING AGENCY ADOPTIONS PROGRAM

Relinquishing a child means permanently giving the child to the adoption agency so the agency can choose other parents to adopt the child. Your permanently give up the child to the adoption agency by signing this Statement of Understanding and the Relinquishment document. You will no longer have any rights as a parent to your child once these documents have been filed with the state Department of Social Services, Adoptions Branch.

If you are thought to be a presumed father of the child, you should be aware under the law you have legal rights and responsibilities toward the child even if you deny paternity. You also have a right to look for legal counsel to obtain the right to physical custody of the child. If you want to be a parent to the child, there are services available to help you.

Giving up your child is a very important decision. You should know all the facts about it and weigh its advantages and disadvantages before you make your decision.

Instructions To Complete The Statement Of Understanding:

BEFORE YOU SIGN THIS STATEMENT OF UNDERSTANDING AND THE RELINQUISHMENT DOCUMENT, READ BOTH VERY CAREFULLY WITH YOUR SOCIAL WORKER. BE SURE TO ASK QUESTIONS ABOUT ANYTHING YOU DO NOT UNDERSTAND.

1. *Complete this Statement of Understanding only after you have carefully thought about giving up your child and you*

are sure you want your child adopted and raised by other parents the adoption agency has selected.

2. *Read each of the statements in this document very carefully. If you do not understand a statement, ask your social worker to explain it to you until you do understand.*

3. *If you understand and agree with a statement, put your initials in the box next to the number of that statement.*

4. *If you do not agree, or if you do not understand a statement after your social worker's explanation, do not initial the box. Ask for more help and time in making your decision.*

5. *If you have initialed all the boxes, sign your name at the end. Two witnesses must be present when you sign your name and they will sign their names after yours. (Witnesses are not necessary if signed outside of California.)*

6. *You will receive a copy of this Statement of Understanding once it has been completed.*

STATEMENT OF UNDERSTANDING
Mother or a Presumed Father Who Has a Legal Right to Physical Custody of the Child

Name of Child Michelle Tyler Date of Birth 4-14-91

If more than one child, include names and birthdates for all.

T 1. I understand I have the right to look for a lawyer to help me in the relinquishment process and the adoption agency can refer me to public legal help in my community.

T 2. I understand I may talk about my plan to give up my child with other professional people, my family and friends.

T 3. I understand if I am not sure I want to give up my child, there are other places the agency can refer me to that could help me with family, health, money and other problems.

T 4. I understand if I sign this Statement of Understanding and the relinquishment document, I will no longer be my child's legal parent once these documents are filed with the State Department of Social Services, Adoptions Branch. This means:

A. I will no longer be responsible for the care of my child; and

B. I will no longer have any right to the custody, services or earnings of my child.

T 5. I understand by relinquishing my child:

A. I am giving up my child to the adoption agency; and

B. I am giving up the right to select adoptive parents and the final decision about who adopts my child will be made by the adoption agency.

T 6. I understand if I decide not to give up my child to the adoption agency, I can place my child for adoption with parents I find myself and agree only to an adoption of my child by these parents; this is called an Independent Adoption.

T 7. I understand if I sign this Statement of Understanding and the relinquishment document, I can take them back during any holding period referred to in Number 15 below or before it has been filed with the State Department of Social Services, Adoptions Branch.

A. Under normal circumstances the adoption agency shall give my child to me within three working days and in no case shall it take more than seven calendar days.

B. The rights and responsibilities as my child's parent will continue unless taken away by other legal action.

C. If the adoption agency believes giving my child to me would hurt or otherwise harm my child, the agency will make an immediate referral to the county's child protective services agency. The adoption agency will let me know in writing if they do this.

T 8. I understand once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:

A. If I want to stop the relinquishment and have my child given to me, the adoption agency will have to agree.

B. If the adoption agency does not agree, they will inform me in writing of the reason(s) for not giving me my child.

C. If the adoption agency agrees to give me my child, the rights and responsibilities as my child's parent will continue unless take away by other legal action.

D. If the adoption agency agrees to give me my child, it shall normally take three working days and in no case shall it take more than seven calendar days.

T 9. I understand before my child is legally adopted, the adoption agency must answer my questions about his/her situation. If I ask for information

at any future time, the agency must give me all known information about the status of my child's adoption including whether my child has been placed for adoption, the approximate date the adoption was completed and if the adoption was not completed or was vacated for any reason, whether adoptive placement of my child is again being considered.

A. I understand I must keep the adoption agency informed of my address if I want to know when my child was placed in an adoptive home and when my child was legally adopted.

T 10. I understand after my child's adoption has been granted in court, all inheritance rights from any blood relatives will end unless they have made arrangements in their will or in a trust which specifically includes my child. My child will legally inherit from his/her adoptive parents.

T 11. I understand after my child has been legally adopted, the adoption agency cannot return my child to me.

T 12. I understand the adoption agency can release identifying information from the adoption case record only when:

A. It has been requested by certain agencies as named in law because the information is needed to help my child;

B. The adoptive parent, my child when he/she is an adult and I have all signed a firm agreeing to the release of identifying information so contract can be arranged;

C. My child has reached 21 years of age, asks for my identity and I have agreed in writing

to the release of my identity and most current address in the adoption agency's record;

D. My child has reached 21 years of age and has indicated in writing I can have his/her adopted name and most current address as indicated in the adoption agency's record and I have asked for this information; or

E. My child is under 21 years of age and the adoption agency has found the release of my identity and most current address as indicated in the agency's file is justified according to law.

T 13. I understand the court can, after considering the request, release identifying information from the court adoption file.

T 14. I understand if I think I was forced to sign or deliberately not told the truth about giving up my child, I have five years after the date the adoption was completed to ask the court to set aside the adoption of my child.

T 15. I understand I have the following filing choices when I sign this Statement of Understanding and relinquishment document:

A. I may choose to have the adoption agency file my relinquishment form immediately. If so, I may take it back any time before the close of the next working day after I sign the form; or

B. I may choose to have the adoption hold the relinquishment form for up to 30 days so I can think about my decision. I understand my child will not be placed for adoption during any holding period; or

C. I may agree with the adoption agency to held the relinquishment form for more than 30 days if my child must be freed for adoption from any other parent(s). I understand my child will not be placed for adoption during any holding period.

Put a child mark in front of the one statement that says what filing choice you want:

[✔] I want the relinquishment form filed immediately.

[ ] I want the relinquishment form held for _____ days until _____

[ ] I agree to have the relinquishment form held until my child has been freed for adoption from any other parent(s).

[LT] 16. I have carefully thought about the reasons for keeping or giving up my child. I have discussed the adoption plan of my child with the adoption agency, and I have decided giving up my child to the agency for adoption is in the best interest of my child. I have read and understand this Statement of Understanding and the relinquishment document. I do not need any more help or time to make my decision. I have decided to relinquish my child permanently to Children's Home Society of California
Name of Agency
for adoption and I am signing this freely and willingly.

I, Lea Tyler, mother/father of Michelle Tyler,
Name of Parent Name of Child
understand and agree to the statements I have initialed above.

5-4-91 Lea Tyler
Date Signature of Parent

Complete SECTION A if signed in California

SECTION A:

I, Dee Heszler, Field Representative an authorized official
Name and Title
of Children's Home Society of California, accept this
Name of Agency
Statement of Understanding of Lea Tyler
Relinquishing Parent's Name

5-4-91 Dee Heszler
Date Signature of Authorized Official

The foregoing Statement of Understanding was signed on:

5-4-91 by Lea Tyler
Date Relinquishing Parent's Name

In the presence of:

Alden P. Hull Marguerite L. Hull
Witness Signature Witness Signature

Complete SECTION B if signed out of California

SECTION B:

State of _____) ss.
)
County _____)

On this _____ day of _____, 19 _____, before me, _____ a Notary Public in and for said county and state, personally appeared _____ known to me to be the person whose name _____ subscribed to within instrument, and acknowledged to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

/s/ _____
Notary Public in and for the County
of _____,
State of _____
My commission expires
_____

(Affix Notarial Seal)

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RELINQUISHMENT CONTAINED IN THE FILES OF CHILDREN'S HOME SOCIETY OF CALIFORNIA.

Date 5-7-91

JAMES T. SPRADLEY, JR.
President and Chief Executive Officer
By /s/ Maureen Hughes
(Authorized Representative)
Title Maureen Hughes
Adoption Services
Program Supervisor

APPENDIX D

STATEMENT OF UNDERSTANDING AGENCY ADOPTIONS PROGRAM

Relinquishing a child means permanently giving the child to the adoption agency so the agency can choose other parents to adopt the child. You permanently give up the child to the adoption agency by signing this Statement of Understanding and the relinquishment document. You will no longer have any rights as a parent to your child once these documents have been filed with the State Department of Social Services, Adoptions Branch.

You also have a right to look for legal counsel to prove you are the father of this child and to obtain the right to physical custody of the child. If you want to be a parent to the child, there are services available to help you.

Giving up your child is a very important decision. You should know all the facts about it and weigh its advantages and disadvantages before you make your decision.

Instructions To Complete The Statement Of Understanding:

BEFORE YOU SIGN THIS STATEMENT OF UNDERSTANDING AND THE RELINQUISHMENT DOCUMENT, READ BOTH VERY CAREFULLY WITH YOUR SOCIAL WORKER. BE SURE TO ASK QUESTIONS ABOUT ANYTHING YOU DO NOT UNDERSTAND.

1. *Complete this Statement of Understanding only after you have carefully thought about giving up your child and you*

are sure you want your child adopted and raised by other parents the adoption agency has selected.

2. *Read each of the statements in this document very carefully. If you do not understand a statement, ask your social worker to explain it to you until you do understand.*

3. *If you understand and agree with a statement, put your initials in the box next to the number of that statement.*

4. *If you do not agree, or if you do not understand a statement after your social worker's explanation, do not initial the box. Ask for more help and time in making your decision.*

5. *If you have initialed all the boxes, sign your name at the end. Two witnesses must be present when you sign your name and they will sign their names after yours. (Witnesses are not necessary if signed outside of California.)*

6. *You will receive a copy of this Statement of Understanding once it has been completed.*

STATEMENT OF UNDERSTANDING
Alleged Natural Father Who Relinquishes His Child

Name of Child Michelle Tyler Date of Birth 4-14-91 if more than one child, include names and birthdates for all.

MK 1. The adoption agency has told me why they think I am the alleged natural father of this child and I understand I can:

A. File a petition in court to prove I am the father of this child;

B. Deny I am the father;

C. Give up my rights to any more notice of the adoption proceedings; or

D. Sign a relinquishment.

MK 2. I understand I have the right to look for a lawyer to help me in the relinquishment process and the adoption agency can refer me to public legal help in my community.

MK 3. I understand if I want to be a father to this child, I must get a court order that says I am this child's father and gives me the right to physical custody of my child.

MK 4. I understand I have the right to look for a lawyer to help me prove I am the father of this child and get the right to physical custody. The adoption agency can refer me to public legal help in my community.

MK 5. I understand if I do not sign this Statement of Understanding and relinquishment document, the adoption agency can go to court and ask the court to end my rights as this child's parent and:

A. I have the right to look for a lawyer to help me argue against this; and

B. The adoption agency can refer me to public legal help in my community.

MK 6. I understand the adoption agency is to tell me about their adoption plan for my child.

MK 7. I understand if I want to raise my child and I am successful in proving I am the father of this child in court and get the right to physical custody of my child, there are other places the agency can refer me to that could help me with family, health, money and other problems.

MK 8. I understand if I am successful in proving I am the father of this child in court and get the right to physical custody of my child and

decide not to give my child up to the adoption agency, I can place my child for adoption with parents I find myself and agree to an adoption of my child by these parents; this is called an Independent Adoption.

MK 9. I understand if I am successful in proving I am the father of this child in court and I am given the right to physical custody of my child, the adoption agency shall follow the court order and give me my child.

A. Under normal circumstances the adoption agency shall give my child to me with three working days and in no case shall it take more than seven calendar days.

B. If the adoption agency believes giving my child to me would hurt or otherwise harm my child, the agency will make an immediate referral to the county's child protective services agency. The adoption agency will let me know in writing if they do this.

MK 10. I understand I may talk about my plan to give up my child with other professional people, my family and friends.

MK 11. I understand if I sign this Statement of Understanding and the relinquishment document, I will no longer be my child's legal parent once these documents are filed with the State Department of Social Services, Adoptions Branch. This means:

A. I will no longer be responsible for the care of my child; and

B. I will no longer have any right to the custody, services or earnings of my child.

MK 12. I understand by relinquishing my child;

A. I am giving up my child to the adoption agency; and

B. I am giving up the right to select adoptive parents and the final decision about who adopts my child will be made by the adoption agency.

MK 13. I understand after my child's adoption has been granted in court, all inheritance rights from any blood relatives will end unless they have made arrangements in their will or in a trust which specifically includes my child. My child will legally inherit from his/her adoptive parents.

MK 14. I understand if I sign this Statement of Understanding and the relinquishment document, I can take them back during any holding period referred to in Number 21 below or before it has been filed with the State Department of Social Services, Adoptions Branch.

A. The rights and responsibilities as my child's alleged natural father will continue unless taken away by other legal action.

MK 15. I understand once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:

A. If I want to stop the relinquishment, the adoption agency will have to agree.

B. If the adoption agency does not agree, they will inform me in writing of the reason(s).

C. If the adoption agency agrees to stop the relinquishment, I will have to prove I am the father of this child in court if I want to be a parent to this child.

MK 16. I understand before my child is legally adopted, the adoption agency must answer my questions about his/her situation. If I ask for information at any future time, the agency must give me all known information about the status of my child's adoption including whether my child has been placed for adoption, the approximate date the adoption was completed and if the adoption was not completed or was vacated for any reason, whether adoptive placement of my child is again being considered.

A. I understand I must keep the adoption agency informed of my address if I want to know when my child was placed in an adoptive home and when my child was legally adopted.

MK 17. I understand after my child has been legally adopted, the adoption agency cannot return my child to me.

MK 18. I understand the adoption agency can release identifying information from the adoption case record only when:

A. It has been requested by certain agencies as named in law because the information is needed to help my child;

B. The adoptive parent, my child when he/she is an adult and I have all signed a form agreeing to the release of identifying information so contact can be arranged;

C. My child has reached 21 years of age, asks for my identity and I have agreed in writing to the release of my identity and most current address in the adoption agency's record;

D. My child has reached 21 years of age and has indicated in writing I can have his/her adopted name and most current address as indicated in the adoption agency's record and I have asked for this information; or

E. My child is under 21 years of age and the adoption agency has found the release of my identity and most current address as indicated in the agency's file is justified according to law.

MK 19. I understand the court can, after considering the request, release identifying information from the court adoption file.

MK 20. I understand if I think I was forced to sign or deliberately not told the truth about giving up my child, I have five years after the date the adoption was completed to ask the court to set aside the adoption of my child.

MK 21. I understand I have the following filing choices when I sign this Statement of Understanding and relinquishment document:

A. I may choose to have the adoption agency file my relinquishment form immediately. If so, I may take it back any time before the close of the next working day after I sign the form; or

B. I may choose to have the adoption agency hold the relinquishment form for up to 30

days so I can think about my decision. I understand my child will not be placed for adoption during any hold period; or

C. I may agree with the adoption agency to hold the relinquishment form for more than 30 days if my child must be freed for adoption from any other parent(s). I understand my child will not be placed for adoption during any holding period.

Put a check in front of the one statement that says what filing choice you want:

[✓] I want the relinquishment form filed immediately.

[ ] I want to relinquishment form held for _____ days until _____.

[ ] I agree to have the relinquishment form held until my child has been freed for adoption from any other parent(s).

[ ] 22. I have carefully though about the reasons for keeping or giving up my child. I have discussed the adoption plan of my child with the adoption agency, and I have decided giving up my child to the agency for adoption is in the best interest of my child. I have read and understand this Statement of Understanding and the relinquishment document. I do not need any more help or time to make my decision. I have decided to relinquish my child permanently to Children's Home Society of California
Name of Agency
for adoption and I am signing this freely and willingly.

I, Matthew Kinn (Name of Parent), ~~mother~~/father of Michelle Tyler (Name of Child), understand and agree to the statements I have initialed above.

5/4/91 (Date) /s/ Matthew Kinn (Signature of Parent)

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RELINQUISHMENT CONTAINED IN THE FILES OF CHILDREN'S HOME SOCIETY OF CALIFORNIA.

Date 5-7-91

JAMES T. SPRADLEY, JR.
President and Chief Executive Officer
By /s/ Maureen Hughes
(Authorized Representative)

Title Maureen Hughes
Adoption Services Program Supervisor

Complete SECTION A if signed in California

SECTION A:

I, Dee Heszler, Field Representative, an authorized official of
Name and Title

Children's Home Society of California, accept this Statement
Name of Agency

of Understanding of Matthew Kinn
Relinquishing Parent's Name

5-4-91 /s/ Dee Heszler
Date Signature of Authorized Official

The foregoing Statement of Understanding was signed on:

5-4-91 /s/ Matthew Kinn
Date Relinquishing Parent's Name

in the presence of:

/s/ Alden P. Hull /s/ Marguerite L. Hull
Witness Signature Witness Signature

Complete SECTION B if signed out of California

SECTION B:

State of _____) ss.
)
County _____)

On this _____ day of _____, 19____, before me, _____ a Notary Public in and for said county and state, personally appeared _____ known

to me to be the person whose name _____ subscribed to within instrument, and acknowledged to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

_____

(Affix Notarial Seal) Notary Public in and for the County

of _____, State of

_____

My commission expires _____

_____